

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LILLY JONES and MICHAEL JONES,)

)

Plaintiffs,)

)

- vs. -)

No. 08-C-1310

)

STEVIE PORTER, HARLAN)

)

HANBROUGH, AURORA LOAN)

Judge Hibbler

SERVICES, and MORTGAGE)

)

ELECTRONIC REGISTRATION)

Magistrate Judge Schenkier

SYSTEMS, INC.)

)

Defendants.)

MOTION TO DISMISS BY DEFENDANT
AURORA LOAN SERVICES LLC

Now comes defendant Aurora Loan Services LLC, sued as Aurora Loan Services, by and through its undersigned attorneys, and for its motion pursuant to Rule 12(b) of the Federal Rules of Civil Procedure for an order dismissing movant as a defendant in this action, states as follows.

1. The Complaint filed in this action by plaintiffs Lilly Jones and Michael Jones ("Plaintiffs") alleges among other things that defendant Aurora Loan Services LLC, sued as Aurora Loan Services, ("Aurora") is the mortgagee of a subordinate residential real estate mortgage (the "Mortgage") executed and delivered by defendant Harlan Hansbrough ("Hansbrough").

2. In fact, Aurora is not the mortgagee of the Mortgage. Instead, Aurora is the loan servicer for the obligation secured by the Mortgage.

3. As reflected on the face of the Mortgage, defendant Mortgage Electronic Registration Systems, Inc., as nominee for Lehman Brothers Bank, FSB, ("MERS") is the mortgagee of the Mortgage.

4. Plaintiffs' allegations concerning Aurora apparently stem from an error in the office of the Cook County Recorder of Deeds.

5. Subsequent to commencement of this action, counsel for Aurora and MERS made representations to Plaintiffs' counsel substantially as set forth in paragraphs 2 and 3, *supra*, and provided to Plaintiffs' counsel relevant mortgage instruments.

6. Based on the representations and documents provided by defendants' counsel, Plaintiffs agree that Aurora should be dismissed from this action without prejudice and without costs to any party.

7. The undersigned is counsel of record not only for Aurora but also for MERS and Hansbrough, who each agree that Aurora should be dismissed from this action.

8. Defendant Stevie Porter has not yet appeared in this action and is the only party that has not given express consent to dismissal of Aurora.

WHEREFORE, defendant Aurora Loan Services LLC, sued as Aurora Loan Services, prays for the entry of an order dismissing movant as a defendant in this action, without prejudice and without costs to any party, and granting movant such other relief as this Court may deem appropriate.

Aurora Loan Services LLC

By: */s/ James A. Larson*

One of its Attorneys

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